



FISH & NEAVE IP GROUP  
ROPES & GRAY LLP  
1251 AVENUE OF THE AMERICAS FL C3  
NEW YORK NY 10020-1105

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**JUL 07 2005**

**OFFICE OF PETITIONS**

In re Application of  
Robert E. Beach et al.  
Application No. 10/033,861  
Filed: December 27, 2001  
Attorney Docket Number: SYM-5 CONT

**ON PETITION**

This is a decision on the petition under 37 CFR 1.137(b), filed June 13, 2005, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed November 2, 2004. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned February 3, 2005. Accordingly, a Notice of Abandonment was mailed June 2, 2005.

Petitioner files the instant petition under 37 CFR 1.137(b).<sup>1</sup>

Receipt is also acknowledged of the revocation and power of attorney signed by assignee. However, a review of the power of attorney discloses that it is unacceptable since it is not in compliance with 37 CFR 3.73(b) in that the putative assignee has not established its right to take action in accordance with 37 CFR 3.73(b). Specifically, petitioners have not provided documentary evidence of a chain of title from the original owner to the assignee, nor shown that documentary evidence of a chain of title from the original owner to the

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<sup>1</sup>Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

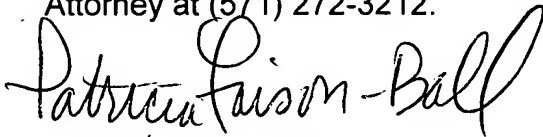
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

assignee is recorded in the assignment records of the Office (*i.e.* reel and frame number). Upon completion and submission of a Certificate Under 37 CFR 3.73(b) form, the power of attorney will be acceptable.

This application is being forwarded to Technology Center 2661 for appropriate action on the amendment filed June 13, 2005.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial "P".

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions

cc:  
FAY KAPLUN & MARCIN LLP  
150 BROADWAY, SUITE 702  
NEW YORK, NEW YORK 10038